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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,187	06/13/2001	Kurt Ryf	39021-172671	3997

7590 10/21/2003

VENABLE, BAETJER, HOWARD & CIVILETTI, LLP
P.O. Box 34385
Washington, DC 20043-9998

EXAMINER

MILLER, EDWARD A

ART UNIT PAPER NUMBER

3641

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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11

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Commissioner for Patents

See next page.

Art Unit: 3641

1. The replies filed on July 9 and 31, 2003, are not fully responsive to the prior Office Action because of the following omission(s) or matter(s): In the reply, applicants have failed to properly reply to the issues of record. See 37 CFR 1.135(b):

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

See also 37 CFR 1.111(b):

(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes ... does not comply with the requirements of this section.

Applicants traverse, for example, that claims 17-18 are the same patentable invention [as Group I] in traversing the restriction requirement. These claims are specifically mentioned in the rejection for indefiniteness under 35 USC 112, including specific criticisms such as the meaning of the "green" limitation, incompleteness and so on. However, applicants' claims 17-18 are without change and without any argument as to the deficiencies for which the claims were rejected. Likewise, claims 14-16 remain in original form, notwithstanding the 35 USC 112 rejection of record. Only if applicants do not traverse the restriction, whereby the claims are not potentially rejoin-able, would applicants be excused from failing to reply in a proper manner to the rejection(s) of record. Similarly, while claims 1-13 were cancelled in favor of new claims 19-37 drawn to that invention, with some changes compared to original claims 1-13, there is either no or insufficient argument, pointing out how the amendments [to the subject matter of original claims] serve to overcome the substance of the three

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to four pages of the 35 USC 112 rejection in Paper No. 7. The reply is found non-responsive, but as at least some of the problems appear to have been improved, this is deemed to be, in this instance, a good faith effort. See 37 CFR 1.111.


2. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

3. Any inquiry concerning either this or an earlier communication from the Examiner should be directed to Examiner Edward A. Miller at (703) 306-4163. Examiner Miller may normally be reached Monday-Thursday, from 10 AM to 7 PM.

If attempts to reach Examiner Miller by telephone are unsuccessful, his supervisor Mr. Carone can be reached at (703) 306-4198.

If there is no answer, or for any inquiry of a general nature or relating to the application status, please call the Group receptionist at (703) 308-1113.

Miller/em
October 20, 2003



**EDWARD A. MILLER
PRIMARY EXAMINER**